

505 KAR 1:090. Supervised placement revocation.

RELATES TO: KRS 605.090, 635.100

STATUTORY AUTHORITY: KRS 605.150, 635.095, 635.100(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 635.090 and 635.100(6) authorize the Department of Juvenile Justice to promulgate administrative regulations relating to juveniles committed to the department and placed on supervised placement. This administrative regulation establishes the procedures for revocation of supervised placement.

Section 1. Definitions. (1) "Commissioner's warrant" means a document issued by the department directing that a juvenile be taken into custody, pursuant to KRS 635.100.

(2) "Safety concern" means behavior that places the juvenile or community at risk for physical injury.

(3) "Supervised placement revocation hearing" means a hearing conducted by a hearing officer to determine if conditions of supervised placement have been violated.

Section 2. Request for Supervised Placement Revocation. (1)(a) A juvenile that is arrested or charged with commission of a felony offense shall:

1. Be considered a risk to the community; and

2. Have supervised placement revocation initiated by the assigned juvenile services worker.

(b) If the juvenile services worker knows of extenuating circumstances related to the juvenile's behavior or the offense, they may request through the chain of command that the juvenile services regional manager authorize the noninitiation of revocation proceedings.

(2) In the case of a youth requiring immediate placement as a result of safety concern:

(a) The juvenile services worker shall prepare and forward a supervised placement violation report and a written statement supporting the request for the issuance of a commissioner's warrant to his juvenile services district supervisor.

(b) If in agreement with the juvenile services worker's assessment, the juvenile services district supervisor shall forward the request to the juvenile services regional manager who, if in agreement, shall issue a commissioner's warrant and shall forward the request to the Division of Program Services.

(c) The juvenile services worker shall immediately notify the Division of Program Services when the commissioner's warrant is executed and forward a copy of the executed document to the Division of Program Services.

(d) The Director of the Division of Program Services, or designee, shall, upon receipt of a request for immediate placement, contact the Centralized Intake/Classification Branch Manager and inform her of the pending action and, upon notice that the juvenile has been taken into custody, shall:

1. Schedule a probable cause hearing within five (5) days, excluding weekend and holidays, of the youth being taken into custody, unless a continuance is requested by the juvenile or his attorney;

2. In writing, notify the juvenile, his parents or other person exercising custodial control of the specific conditions of supervised placement allegedly violated and forward a copy of the notification letter to appropriate department personnel;

3. Notify the juvenile, his parents or other person exercising custodial control of his right to be represented by counsel;

4. Forward a copy of the notification letter to the last attorney of record, counsel for the juvenile, or the Department of Public Advocacy, as appropriate;

5. Notify the juvenile, his parents or other person exercising custodial control, attorney and the juvenile services worker of the time and location of the hearing; and

6. Conduct the hearing.

(e) The juvenile services worker, or current custodian of the juvenile, shall ensure that a copy of the notification letter signed by the juvenile is returned to the Division of Program Services.

(f) The juvenile services worker or the juvenile services district supervisor shall be responsible for presenting the case against the juvenile at the probable cause hearing. If the evidence presented includes documents, a copy of each document shall be given to the hearing officer for inclusion in the record and to the juvenile or his attorney.

(g) The probable cause hearing shall:

1. Be limited to a determination as to whether there is probable cause to believe that the juvenile violated any terms of the conditions of supervised placement, which may be proven by hearsay evidence, and whether there is a safety concern;

2. Have attendance limited to the juvenile, parents or other person exercising custodial control, legal counsel, department personnel, and witnesses as necessary;

3. Be conducted informally; and

4. Be mechanically recorded by the hearing officer.

(h) At the probable cause hearing, the juvenile shall have a right to:

1. Testify or refuse to testify in his own behalf;

2. Examine and cross-examine witnesses; and

3. Present evidence negating the determination of probable cause.

(i) At the conclusion of the probable cause hearing, the hearing officer shall:

1. Summarize the allegations and evidence presented and issue a decision determining whether there is probable cause to believe the juvenile has violated a condition of supervised placement;

2. If probable cause is found, determine whether there is probable cause to believe a safety concern exists that requires that the juvenile remain in custody; and

3. If probable cause has been established, provide immediate notice to the juvenile services regional manager, or designee, and the Division of Program Services.

(j) Upon receipt of notice that probable cause has been established, the Director of the Division of Program Services shall assign a hearing officer to conduct the revocation hearing.

(k) If probable cause is not established, the juvenile shall be immediately released from custody and the juvenile services worker shall make arrangements for the juvenile to continue on supervised placement.

(l) If probable cause is established but a safety concern is not present, the juvenile shall be released from custody and the proceeding shall continue pursuant to Section (3) of this section.

(3) In the case of a juvenile not requiring immediate placement as a result of safety concerns:

(a) The juvenile services worker shall prepare and forward a supervised placement violation report and revocation hearing request to the juvenile services district supervisor.

(b) If in agreement with the juvenile services worker's assessment, the juvenile services district supervisor shall forward the request to the juvenile services regional manager who, if in agreement, shall forward the request to the Director of the Division of Program Services, or designee. An out-of-home placement packet shall be forwarded by the Court/Placement Specialist to the Centralized Intake/Classification Branch.

(c) The Director of the Division of Program Services shall assign a hearing officer to conduct the revocation hearing.

Section 3. Revocation Hearing. (1) The revocation hearing shall:

(a) For a juvenile in custody on a commissioner's warrant, be held within ten (10) days, excluding weekends and holidays, of the probable cause hearing, unless a continuance is requested by the juvenile or his attorney; and

(b) Be conducted by the assigned hearing officer.

(2) The hearing officer for the supervised placement revocation hearing shall:

(a) Notify the juvenile and his parents or other person exercising custodial control of the specific conditions of supervised placement allegedly violated and their right to be represented by counsel;

(b) Notify the juvenile, his parents or other person exercising custodial control, legal counsel, and department staff of the time and location of the hearing;

(c) Notify department staff that they shall, upon written request, provide copies of all revocation documents to the juvenile's attorney within five (5) working days of receipt of the request;

(d) Conduct the revocation hearing;

(e) Open the hearing by reading the terms of supervised placement allegedly violated, which shall set the parameters of the hearing;

(f) Administer the oath and take testimony from witnesses;

(g) Allow all parties to establish pertinent facts and circumstances relative to the allegations, bring witnesses, present evidence and question or refute any testimony or evidence presented, including the opportunity to cross-examine witnesses;

(h) Mechanically record the hearing;

(i) Based on a preponderance of the evidence presented at the hearing, determine whether the juvenile violated one (1) or more terms of his supervised placement; and

(j) Submit written findings of fact and a recommendation regarding revocation to the regional division director and the juvenile's attorney within three (3) working days of the conclusion of the hearing.

(3) The juvenile services worker or the juvenile services district supervisor who requested the hearing shall be responsible for presenting the department's case at the hearing. The juvenile services worker shall provide copies of documentation supporting the revocation request for entry into the record as evidence and shall be prepared to offer a recommendation as to appropriate treatment or sanctions. If the juvenile services worker plans to call witnesses to testify, it shall be the worker's responsibility to have the witnesses present for the hearing.

(4) If the hearing officer has determined that a violation has occurred, the regional division director, or designee, shall make the final decision regarding the results of the revocation hearing. Options may include the following:

(a) If the hearing officer determined that a condition of supervised placement has been violated and revocation is warranted, a decision may be made for out-of-home placement.

(b) If the hearing officer determined that a condition of supervised placement has been violated, the division director may determine that revocation is not warranted and permit the juvenile to remain in the community on supervised placement. If the juvenile remains in the community, the juvenile services worker shall prepare revised conditions of supervised placement, with increased sanctions, within five (5) calendar days from the receipt of the revocation hearing decision. Failure by the juvenile to abide by the revised conditions may result in a request for supervised placement revocation.

(5) If the hearing officer has determined that the juvenile did not violate a condition of supervised placement, the juvenile shall remain on supervised placement.

(6) The regional division director, or designee, shall cause a decision letter to be sent by certified mail, return receipt requested, to the juvenile, the parents or other person exercising

custodial control, and the juvenile's attorney within five (5) working days of receipt of the hearing officer's findings of facts. The decision letter shall be copied to appropriate department staff. The decision letter shall contain:

- (a) Specific conditions of supervised placement violated;
- (b) Evidence relied upon in making the final decision; and
- (c) The final decision.

(7) If supervised placement is revoked, the juvenile shall be advised that a decision concerning treatment and placement shall be rendered by the Centralized Intake/Classification Branch Manager.

(8) A juvenile who has remained in custody during the revocation process shall be placed, to the extent possible, within ten (10) days, excluding weekends and holidays, following the final decision to revoke.

Section 4. Appeal. A juvenile aggrieved by the decision of the regional division director may, within ten (10) days, submit a written request for reconsideration to the Commissioner of the Department of Juvenile Justice. The request shall provide justification for the requested reversal and shall be no longer than two (2) written pages. The commissioner, or his designee, shall, within five (5) days, issue a final decision. (26 Ky.R. 1866; 2236; eff. 6-12-2000; Crt eff. 3-13-2019.)